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# Creative Living off the Margins of the Niger Delta: Implications for Corporate Governance

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## Abstract

The distribution and privatization channels of the wealth from Niger Delta's oil and gas resources are multiple. The main channels excessively favor mainly office holders, international entrepreneurs and their contractors. The rest of the population, or the less favored majority will have to cut their share of the wealth via the alternative channels which may include violent insurgencies. This work focuses on one of these alternative channels, where an Igbo community creatively sustain their access to the oil wealth. An ethnographic study of Egbema, shows that the local population modify their traditional practices to sustain the flow of the oil wealth. This modifying capacity was manifest when they creatively transformed a fishing festival that was traditionally celebrated exclusively, into a public fish bazaar. This was done to keep hold of the money received as compensation for the land expropriated for oil extraction by Shell Petroleum Development Company (SPDC). This has implications for corporate governance, especially with regard to the relationship between companies and other stakeholders.

**Keywords:** compensation, shell petroleum, igbo town union, corporate-stakeholder relationship

## 1. Introduction

The oilfields of Nigeria's Niger Delta number up to three hundred, a little less than one percent of the forty thousand oil fields littered across different parts of the globe [1, 2]. Like in playing, 'Bop the peñata'<sup>1</sup>, a Mexican game played by birthday attendants, [3] the scramble for rents or wealth in general accruing from these oilfields involves both the highly privileged dominant minority and the less privileged marginalized majority. The dominant minority consolidates and strengthens their advantage by establishing oil wealth distribution channels that are accessible mainly to them. The disgruntled majority aim to either wrestle the dominant

<sup>1</sup> This is a game played by kids attending a birthday. A cardboard donkey filled with candies is hung and kids stand underneath it with plastic sticks. The idea is to bop this cardboard donkey open with the plastic sticks to release the candies, which the kids now scramble to pick up in numbers. In the process of doing so, kids bump into, strike, or shove each other. Reyna and Behrends [3] offer this as a 'useful metaphor for what happens where domination occurs' in the same manner it occurs in developing oil producing states. This, according to them, can be investigated in terms of 'struggles to regulate domination'.

minority for a fair share of the rents or engage the available channels creatively for some share of the rents.

This chapter is about an instance of this creative engagement with a distribution channel of Niger Delta's oil wealth. The channel that is engaged with in this case is the compensation for land expropriated or oil extraction business. A nine-month ethnographic study of Obufia, a town in the Egbema/Ohaji Local Government Area (LGA) of Imo State, revealed that the money paid by Shell Petroleum Development Company (SPDC) as compensation for an expropriated land earned the oil company a social operational license in Obufia. At the same time, it generated a dispute capable of consuming hundreds of lives and properties worth of millions, were it not managed with extra care and prudence.

As it happened, this compensation money was not paid once but as a rent, which came in periodically. As a result, with an eye on a sizable piece of the oil largess, several communities stepped forward to stake their claim on the expropriated land. A dispute ensued and dragged on for years. Moso, one of the communities involved in the dispute opted to transform a traditional fishing festival from an exclusive tri-annual event to an open annual fish bazaar. This was intended for fundraising to finance the protracted and expensive court case. Although SPDC suspended the payment while the court settled the case, Moso community continued to sustain the new version of their festival. The money raised thereof continues to serve the community in court and in other aspects.

Nevertheless, what if Moso community was not creative enough to opt for a modification of an age-long traditional festival in their bid to sustain their access to the compensation? What if there was no traditional event celebrated commonly? What if some of the community members were strongly opposed to the idea of modifying a traditional festival? An alternative option would have been to coercively demand for the compensation money either directly by kidnapping oil company personnel, or indirectly by other means. This alternative option could not have been far-fetched. Insurgent groups springing up to kidnap for ransom, occupy oil infrastructure and wreck havoc across different parts of the Niger Delta are a good reference point for anyone or group who prefers violence. But for some creative ingenuity, Obufia could easily have become one of the violent ridden parts of the Niger Delta.

Having said that, an approach to negotiating compensation which places a greater share of the burden of determining the most preferable form of compensation on the local community would have changed the entire story. At least, it would have reduced the culpability of the corporation for the turn events took after the compensation. Unfortunately, this was not the case. The oil company's management board threw its weight behind any process that was to determine the form any compensation for expropriated land was going to take. Codes of corporate governance emanating from different parts of the world are reviewed from time to time to incorporate the latest developments in the corporate world. Such reviews have seen codes emerging at the turn of the millennium emphasize stronger relationships between companies, shareholders and other stakeholders [4].

It is outside the scope of the discussion to specify details of what the extant regulations for corporate operations in Nigeria recommended at the time SPDC paid its first compensation to the Obufia. It suffices to note that extant company acts recommended compensation for expropriated land. Assuming the company acted in accordance with the existing regulations, are there sufficient grounds to defend the silence or lack of clarity of these regulations on the inclusion of the local communities in the decision of what constitutes adequate compensation? Is such an infraction not a serious deficiency? As grave as such a deficiency might appear, any hope of its obliteration by the constant review of corporate governance

codes, is profoundly dimmed by a couple of challenges. There is first, the challenge of settling what constitutes value and right behavior in the relationship between companies and other stakeholders [4]. A second challenge involves the high level of corruption coupled with a profound inability to implement statutory recommendations due to ineffective corporate monitoring outfits associated with developing economies [5].

The rest of the discussion in this chapter will proceed as follows. I will begin by introducing the Niger Delta as a resource rich zone, specifying the different distribution channels by which the wealth generated from the exploitation of the Delta's oil resources is appropriated. Thereafter, I will shift my focus to one of the distribution channels, compensation paid for expropriated land. This is where I will detail the proceedings that gave rise to the transformation of the fishing festival in what I termed creative engagement with oil wealth distribution channel. I will then discuss the implications of this whole episode for corporate governance, where I will lend my voice to echoes of demands for more flexibility in the recommendations of codes of corporate governance. These codes need to condition companies to recognize the difference in values and behaviors expected of key participants in the relationship between corporate entities, individuals and states. This difference calls for more elasticity in terms of values and behavior on each of the participants. In conclusion, this chapter recommends that corporations need not impose changes on communities. The story of how the local community receives the changes imposed, which may include stiff rejection or creative engagement need not be told if only corporate codes are designed to be more accommodating.

## **2. The Niger delta and the distribution channels of its oil wealth**

The Niger Delta area is in the southern part of Nigeria, south of the confluence of the Benue and Niger Rivers, and around the water fingers branching off Nigeria's great waterways [6]. The delta is a vast sedimentary basin constructed over time, by successive thick layers of sediments dating back to 40-50 million years. It is a lush coastal plain of about 70, 000 square kilometers. Its geographical perimeter extends from the Benue River in the west to the Cross River in the east, and from the southernmost tip at Palm Point near Akassa to Aboh in the north<sup>2</sup>, where the Niger River bifurcates into its two main tributaries – the Forcados and the Nun Rivers [8–10].

The vegetation zones of the Delta range from tropical rainforest, freshwater swamp forest, and saltwater mangrove forest [9]. The natural resources – crude oil, palm oil, and wood – from the Delta form the bedrock of Nigeria's economy. The natural endowment of the area accounts for about seventy percent of Nigeria's hydrocarbon resources, especially crude oil and natural gas. By 2009 the proven oil reserve of the Delta is estimated at 36.2 billion barrels [11].

Oil extraction in the Delta started in 1956 after the discovery of marketable oil resources in Oloibiri. Between 1969 and 1999, the number of oilfields in the Delta rose from fourteen to as many as a hundred and seventy- six [7]. Forty-four of these are located offshore [7]. By the first decade of the new millennium, there were three hundred oilfields, five thousand two hundred and eighty-four oil wells (twelve of which are in Egbema), and seven thousand kilometers of oil pipelines in the Delta [1]<sup>3</sup>. Tons of crude oil have been shipped from these oilfields. The quantity of oil,

<sup>2</sup> Some sources locate the Delta's northern boundary to the Anambra River [7].

<sup>3</sup> Ike Okonta and Oronto Douglas [12] acknowledge only 150 oilfields. If Watt's [1] calculations are correct, it implies that as many as one hundred and fifty oilfields were discovered between the time Okonta and Douglas went to the press in 2003 and the time Watts's article was published in 2008.



which each oil well produces, is buried in the same mystery that surrounds the financial operations of oil companies [12].

The oil extraction in the Niger Delta has since inception yielded an estimated (US)\$400 billion or more<sup>4</sup> [12, 14, 15]. The collaboration between the state office holders and business enterprise has led to the steady increase in oilfields and barrels of oil produced each day in the Delta. Most of the biggest Transnational Oil Companies (TNOCs), such as Shell, Chevron, ExxonMobil, Total, and Agip (Eni), are well represented in this collaboration.

The oil rents and revenues from the Niger Delta are centrally collected and distributed to different politically established institutions<sup>5</sup>. However, from these institutions, the oil wealth is siphoned into private hands through different distribution channels. Large scale constructions, issuance of import license, employment in civil service, and the creation of sub-federal political units – states, Local Government Areas (LGAs), autonomous communities – constitute the channel through which the greatest part of the Delta's oil wealth goes into private hands [1, 15]. The actors taking advantage of this main channel are mainly office holders, international construction businesses and their executive contractors [15].

A second distribution channel of the Delta's oil wealth is associated with practices such as the occupation of oil infrastructure, extortion of protection money from the oil companies and their contractors, intervention or manipulation of compensation cases, and the kidnapping of oil employees. Many of those who are excluded from the main channel of distribution find their own share of the oil wealth by engaging in these practices [15]. Grabbing a share of the oil rents and spoils in this way can be as coercive as to involve the use of arms and weapons.

The third distribution channel includes some of the practices listed as part of the 'parallel economy funded by [Nigeria's] oil sector' [17]. The list includes practices such as, the diversion of 'special funds' funded by oil receipts; bribes or 'taxation' paid on oil contracts and the extensive smuggling of refined petroleum across Nigeria's borders, the illegal lifting of crude oil (bunkering), and secret accounts held by the NNPC [17].

The last distribution channel of Delta's oil wealth relates to the tendency to modify traditional practices and reconstitute traditional alliances, with the primary purpose of securing, or gaining access to oil rents and spoils. The Igbo of Obufia bring this tendency to life. As mentioned briefly in the introductory section, it is a story of the effects of oil money paid as a compensation for an expropriated land around a lake named *Kutu*. The *Kutu* lake hosted an exclusive fishing festival once in three years, until the arrival of the SPDC engineers who discovered oil and gas reserves around the lake. The discovery of oil and gas reserves around the lake is accompanied by payment of monetized compensation, which initiated a transformation that has brought the creative instincts of the Igbo to light. I will discuss this in detail in the coming section.

<sup>4</sup> Some authors rate it at US\$600 billion [13].

<sup>5</sup> There are four political institutions for distributing Nigeria's oil wealth [16]. The first is the Federal Account that includes rents appropriated directly by the federal state. The second is the state Derivation principle which vests each of the 36 states with the right to a proportion of the taxes which its inhabitants are assumed to have contributed to the federal treasury. It also vests each state with minimum revenue from natural resources derived from it. Currently, it stands at thirteen percent. The third is the Federation of States' Joint Account. By means of the latter, revenue is allocated to states based on need, population and other criteria that will be decided by the parliament. The fourth institution is the Special Grants Account, which includes funds designated specifically for the Niger Delta such as the Oil Mineral Producing Areas Development Commission (OMPADEC), and the Niger Delta Development Commission (NDDC).

### 3. SPDC compensation and the transformation of *Kutu* fishing festival

*Kutu* stands for both the fishing festival and the lake in and around which the latter is celebrated. My first experience of the *Kutu* fishing festival was on the 12th of March 2012. On arrival at the lakeside by midday, there wasn't so much going on. However, the few activities going on were sufficient to give anyone a substantial touch of the festival. During that afternoon at the lake, one could still find people roasting fish and displaying them on makeshift tables for buyers or guests to the festival. Apart from people who were busy roasting fish, there were yet a few others who were still rowing in their boats and taking their scanty hauls ashore. People who wanted to bring home some fresh fish were still hovering around those enduring fishermen, waiting for something good to buy. Nonetheless, all of this proceeded alongside other not so unimportant activities, which included eating, playing or sleeping near the erected makeshift tables or in tents.

While strolling along the lake, I stopped at intervals to speak with some of the people who were busy doing one or two things with their catch. The interviewees recounted some stories about the festival and how they looked forward to it. The fishers complained of a poor fish harvest for that year. They attributed this deficiency to the wrong timing of setting up the fishing nets and other fishing tools in the water. This was exacerbated by a very windy climate throughout the setting-up exercise. Rather than mount the fishing nets after the target fish were retired, they were mounted before they retired, thus allowing the fish enough time to evade the impending danger. As if that was not enough, the tempestuous climate that swept through the mounting of fishing nets and tools session made it difficult to have these nets and tools reach the desired depth in the water. The fishers and the rest of the participants in the festival generally berated the exercise for being not such a profitable venture after all. People who invested in the festival expected to record some turnover and maximize profits. In other words, they expected not only to recover their expenses (the money spent in purchasing the right to participate in the festival alongside other logistics), but also to generate some profits from their sales.

In sum, the *Kutu* festival is an event wherein people engage in different collective activities, which also require individual skills. First, the fishing adepts bring their fishing skills and tools to fish in the lake, to harvest and gather assorted species of fish. Secondly, there is an elaborate celebration of a successful catch of fish. This celebration features different activities such as: fanfare – display of communal hauls accompanied by singing and dancing, display of different recipes of fish and the formation of new friendship ties. Thirdly, when there are candidates for initiation into the *Okoroshi*<sup>6</sup> traditional cult, the initiation rituals take place on the eve of the festival.

The *Kutu* festival, which the village of Moso in Obufia used to organize exclusively for themselves, to celebrate with their friends and relatives, has changed over time. It is currently organized as an open event admissible to anyone from anywhere, who is ready to engage in different kinds of exchange and transaction. Some of its traditional features are either omitted or transformed into something totally different. The transformation of the festival owes much to two different factors.

The first factor relates to the compensation and rent paid by the oil company (SPDC), for expropriating the oilfield in and around the *Kutu* lake. The company pays the villagers some money, over a renewable period. It was the need to sustain

<sup>6</sup> *Okoroshi* is a cult of initiation of male community members into adulthood. No specific age is required for this, but one is expected to be old enough to afford the items required for this initiation, just as one is expected to be capable of rational action (this implies being able to distinguish between what is lawful and what is not, in the local parlance).

the flow of this money that warranted the option of launching/sponsoring which constitute the second factor. The two factors overlap each other, I will begin with the second before going into the first factor, which relates to compensation.

### 3.1 Launching and sponsoring

Launching and sponsoring may be regarded as a practice whereby an innovative performance or product is recognized and appreciated by means of a token. This practice developed during the second half of the twentieth century. It was the Igbo town unions that set the pace for identifying and assigning a launchable or sponsorable quality to goods and services. Following their example, the practice spread rapidly among Nigerians. The criteria by means of which sponsorable and launchable quality can be identified and determined are not written down in any text. Nor is there any formal institution responsible for setting up the criteria at any point. What is required is mainly the creative capacity of the persons involved. Such a capacity may be attained by referring to different scalar registers. However, this practice has roots in certain Igbo traditional practices: *ile eze* and *itu ego*.

Introducing a piece of art by means of a ritualized formal outing – as launching may be rendered in its literal sense – is hardly anything new to Igbo social groups. When people successfully put together fresh artistic initiatives, such as a dance club with peculiar choreographic dance steps and gestures, a masquerade troupe, a wrestling championship, etc., they usually organize a formal public outing to inform the public about it. Participation in such a public outing is usually open to everyone. Nonetheless, hardly any formal outing of such initiatives occurs without having someone named as the sponsor or chief host.

Introducing new things via a formal outing is a practice traceable to '*Ile eze*' and '*Itu ego*' – among the Igbo. The first, '*Ile eze*', is portrayed in the Igbo proverb, *Adighi agba aka afu nwata eze* (No one may be the first to publicize the fact that a toddler has started forming a milk tooth without having to support such an announcement with a token). This is not a mere proverb. It is also accompanied with a corresponding cultural practice. Rather, it is the cultural practice that gave rise to the proverb. Usually, a chicken is required of the person who announces the first tooth set of a toddler across most Igbo groups. In a sense, every new piece of art is like the fresh milk tooth of an infant child.

'*Itu ego*', on the other hand, is the practice of spraying money on someone making a public display, in appreciation of that special contribution. Someone dancing or entertaining with extraordinary skills often draws appreciation beyond applause. It is not unusual to find a performer on stage spotting a target among the spectators and mixing up his/her display with inviting gestures to lure the target into spraying money on them. Most targets end up spraying money on these performers. This cultural practice has continued even among Igbo people resident in other parts of the world. Spraying money on people on social occasions has remained a hallmark of Igbo gatherings. There are people who make material gains from this cultural practice. These people come with lower denominations of currencies to social gatherings, which they exchange for higher ones at unequal rates. The difference is kept as gain.

Following this practice, however, it is quite common to find someone approaching another person, brandishing a magazine he edited, or a sculpture he made, with a request: "*Enyi, lɔnchiaranụ m ihe a*" (Dearie, I hope you do not mind launching this for me). The person approached in this manner can be anybody, though in most cases they are persons who are perceived as capable of making donations or willing to make financial sacrifices. Most people would prefer to approach someone very well known to them, for launching a magazine edited or a sculpture produced



or co-produced. They expect such a person to offer a little more than what might be the actual cost of that thing, supposing it were to be sold in the market. It does not imply that one should not approach a passer-by with a personal product, making a request for launching. In fact, in recent times, it is becoming quite common, especially during social events, to find someone being called upon to give a token (usually money) in appreciation for a good speech or ritual gesture made by another. Such a gesture can be stylishly ushering a guest into an occasion.

Even Christian and religious gatherings are not left out in the adoption of this technique for different purposes in their favor. I was in a church in Newi, when the choir that had won a trophy by coming second in a singing competition, was being received. The anchor of the reception asked the choir leader to go up to the altar with the trophy facing the people. Then he started; 'I want someone to appreciate this trophy with the sum of five thousand Naira.' No one came out. Then, he said, 'Someone should appreciate this trophy with the sum of three thousand Naira.' Few people came out. He reduced the amount further, and further, and people responded accordingly. In the end, he presented a basket, and asked the rest of the people to put in it whatever they could afford to appreciate the trophy with.

These days, annual harvest and bazaars in churches are no longer as simple as bringing the harvest of different things to the altar and having them resold to those who need them. During harvest and bazaars in recent times, someone with special persuasive skills is invited to act as the homilist. Such a homilist is expected to use his/her persuasive skills to convince targeted church members to make offerings much higher than intended. A similar consideration is applied to the choice of the auctioneer, who is expected to squeeze people into coming up with bids much higher than the actual price of items sold. Many churches do not have to wait for occasions like harvest and bazaar to activate this technique of fundraising.

The proliferation and penetration of launching/sponsoring into all facets of social life across Igboland, if not across the entire southern Nigeria, could hardly be divorced from the Igbo town unions and their preferred fundraising mechanisms. The proliferation of town unions during the middle of the twentieth century invested launching/sponsoring with some degree of importance that has helped to push it into different aspects of local social life. Although launching and sponsoring are here lumped together, it should be noted that, when applied to the Igbo town union, they are not necessarily interchangeable concepts. They are paired in this text for two reasons. First, they are both the most preferable fundraising mechanisms in the town union. Secondly, in some instances, it is quite difficult to distinguish one from the other.

Town unions always kick-start any fresh initiative, or fresh edition of some repetitive event or ritual, with a ritualized festive outing. This can be referred to as launching. One can distinguish between two main forms of launching – ritualized launching and spontaneous launching.

Launching in its ritualized form, according to Okafor and Honey [18] is a festive occasion to 'launch' a project that may include the sale of published book. In other words, during this festive occasion a private<sup>7</sup> or community initiative makes a formal outing. During such an outing, the private or community initiative is publicly unveiled, while people react by showing their support and appreciation of it. Someone is usually nominated as the chief launcher. This chief launcher makes the first pronouncement and sets the ball rolling for the launching. Other launchers will follow suit, pronouncing amounts usually less than the amount offered by the

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<sup>7</sup> Any such private initiative must in some way be beneficial to the community represented by the town union.



chief launcher. The chief launcher is expected to announce a very big amount, to set the standard high for the rest of the launchers.

Many times, even when the other invited launchers are willing to offer more than the amount the chief launcher had announced, they hardly choose to do so publicly or overtly. This caution is necessary for preserving the prestige of the chief launcher, an infringement of which could afterwards be a possible source of friction between them and the chief launcher. Considering such a slight to his prestige as a deliberate public disgrace, the chief launcher might want to take his pound of flesh from the offender. On some other occasions, someone can opt to supplement the amount pronounced by the chief launcher, before making his own pronouncement.

Again, by announcing an amount far below expectation, the chief launcher exposes himself to ridicule among his age mates and contemporaries, who will continue to taunt him, until he has redeemed himself on another launching occasion. This accounts for why on many launching occasions, people pledge an amount far higher than what they would willingly part with, or could afford, only to turn around and either delay or withhold the redemption of their pledge. Many town unions have kept a list of people who have made unredeemed pledges. Chief launchers who are more prudent agree with the launching organizers beforehand, on the exact amount they will willingly offer, which can differ from the amount they will announce publicly.

Launching events are done in the open field, or in town assembly facilities or civic centres, and mostly during festive periods, such as Christmas or Easter. Public address systems are usually mounted in strategic corners of the venue. Sometimes, different popular music groups are invited to perform at intervals, to entertain the participants in the launching, and by so doing, attract more people to the launching venue.

The spontaneous form of launching, on the other hand, provides the occasion (not necessarily festive), whereby a repeatable ritual gesture, such as stylishly ushering in a guest during an occasion, gets a special recognition and emphasis by someone other than the originator. When people invite others to honor such gestures, they could use the term launch, or sponsor to lure them. Sponsoring is more appropriate when the ritual gesture is repeated on a regular basis. For instance, the one who kicks off the New Yam<sup>8</sup> festival of a given year, can be said to have sponsored it. As will be demonstrated below, the transformation of the *Kutu* fishing festival is to be understood from this light.

### 3.2 Role of launching/sponsoring in the transformation of *Kutu* festival

Since the introduction of monetary compensation by SPDC, the *Kutu* festival has witnessed a massive transformation. The struggle to gain a substantial portion of this compensation or to position oneself for maximizing access to the compensation, triggered a series of changes in the festival. Before proceeding with the launching/sponsoring effects on the transformation of the festival, a word or two on compensation can be helpful.

Compensation referred to in this case does not cover all of what the Papua New Guineans studied by Marilyn Strathern [19] might ascribe to it. In other words, it ought not to be misconstrued as referring to both the payment made to persons, and the procedures by which people come to negotiate settlement for expropriation of property [19]. Compensation in regard to the lake refers to a kind of substitute for loss of, or damage to, belongings. SPDC or any other oil company makes this

<sup>8</sup> Yam is traditionally the chief crop of the Igbo. Each year, every Igbo community marks the arrival of the new yam in a festive occasion involving the entire community. This is referred to as the New Yam festival.

payment to the community in whose property it drills wells, lays pipelines, constructs gas flaring units, or erects flow-stations in the Niger Delta. The amount paid and the period covered vary with the loss or damage caused. In the case of Moso, the amount and period covered have changed over the years. The most recent payment was about seven million Naira (less than €30, 000).

Generally, compensation is to be understood in relation to the fairness principle. Socio-political analysts speak about the 'fairness principle', which starts from a hypothetical baseline in which no one's activity should be injurious to another [20]. In line with the principle, justification for bearing the costs of another person's activity can be attained only when appropriate compensation is made. In other words, gaining at another's expense, or moving away from the baseline of the 'fairness principle', may be permissible only when appropriate compensation is made. This principle has generated much controversy among scholars. Some say that adequate compensation has to follow any infringement of the 'fairness principle' [20, 21]. Others say that there could be nothing like adequate compensation, considering especially that some goods are non-commodifiable and difficult to be assigned with objective market value [22].

Corporate activities in the Niger Delta include compensating host communities. This aspect of corporate activities in the Niger Delta has a long history. It goes as far back as the early days of resource extraction, ever since an Igbo group in the present Imo state resisted what they regarded as an encroachment into their private property by foreigners [23]. Thenceforth, negotiations of the sort in question often precedes any corporate initiative in most parts of the Niger Delta. This compensation has been packaged and delivered to host communities in different forms. Currently, it is considered as part of the corporate social responsibility (CSR), and delivered through 'corporate-community relations' [24]. This is justified on the grounds of either facilitating the 'social license to operate' [25, 26] or compensating for any contribution to environmental degradation [27, 28]. It may also be justified on the ground of business promotional measures, as well as on philanthropic grounds [29].

However, since 1958, 2 years after marketable oil was discovered in Oloibiri, when SPDC commenced its oil exploration and production operations in the Egbema area, especially around the *Kutu* lake, [30] the company has opted to compensate the host communities for damages and losses resulting from its activities. To do so, it must first, settle the issues relating to the ownership of the expropriated or damaged property.

The ownership of the lake was initially traced to Moso village of Obufia. Another village named Mogbeoru in Bacheki, a neighboring autonomous community to Bodioma, was also associated with the ownership of some portion of land near the lake, where oil operations also extended to. To strengthen its license to operate in the area, SPDC settled for paying periodic monetary compensation to the villages linked with the ownership of the properties in question. Thus, both Moso village of Obufia and Mogbeoru village of Bacheki started receiving compensation from SPDC on a regular basis. This compensation often came as bank checks, not cash.

As the story goes, as soon as SPDC began to pay regular compensation to Moso and Mogbeoru villages, some other villages – Molako in Bacheki and Mogbafo in Obufia – stepped forward to claim that they co-owned some portion of the land for which compensation was being paid by SPDC. This oil rich piece of property thus became the source of protracted disputes between these villages<sup>9</sup>. This dispute was brought to the civil court, but the final judgment was not forthcoming.

<sup>9</sup> Disputes triggered by compensations paid by oil multinationals are widespread in the Niger Delta and some oil companies such as Shell have become aware of how the compensation they pay to the host communities have fed into intra-community and inter-community conflicts [27, 31, 32].

The Molako village of Bacheki had its cause in the dispute spearheaded by one of their own, who was a renowned staff member of SPDC. The fact that this man was affluent and quite influential in SPDC complicated the matter for Moso and Mogbeoru villages<sup>10</sup>. Even up until now, the matter has remained unsettled in court. SPDC, in turn, suspended the payment of the compensation to the villages until such a time as the matter will be resolved satisfactorily and amicably. Jay Ogaranya – an informant on the transformation of the festival in Obufia – mentioned that the matter was settled in 2013, leading to SPDC paying Moso and Mogbeoru the arrears of the compensation. It appears that the case has returned to court once again, from what Orams said to me later.

A different version discloses that when SPDC decided to compensate the communities whose piece of property it expropriated, two villages – Mogbeoru in Bacheki and Moso in Obufia – which identified themselves as the rightful owners of the property in question, co-opted one other village each – Molako in Bacheki and Mogbafo in Obufia – to spread out the ‘windfall’ from Shell to as many beneficiaries as possible. Such a move was expected to add further value and strength to their fraternal bond. It was the younger generation of the very villages identified as the rightful owners of the property, who decided to withhold the portion of the largesse meant for the co-opted villages. This happened at the point when the beneficiaries perceived a significant drop in the value of the money paid out by SPDC. This did not go down well with the losing party, especially the younger generation of the co-opted Molakpo and Mogbafo. The disgruntled parties were then forced to come up with a different narrative. They started to claim that their ancestors owned a portion of the disputed property as well. They would go on to take the matter a step further, by bringing it to court to seek redress.

Nonetheless, despite their differences, both versions of the story admit of disputes regarding the lake being brought to civil court for settlement. In most cases, land disputes in Nigeria require several court hearings. Thus, to meet the financial demands of the protracted judicial processes, the Moso village in Obufia settled for a sponsorable version of the *Kutu* festival. The lake that hosts the festival, they reasoned, should generate the money that will be used to hold festivals in its honor. The money raised from sponsoring each new edition of the festival could go a long way in aiding them finance the court proceedings. Such a reasoning was quite spot on and important for their cause. How did it all happen?

Fishing and distributing fish at any edition of the festival were previously the prerogative of every Moso village member, and any other person granted participatory rights by the members of Moso village. That should change. People can be fishing and doing anything with fish on other lakes or water basins, but to do so on *Kutu* lake is different. It is unique, and a kind of innovation that is launchable. Only those who can recognize and appreciate the innovative quality of fishing or distributing fish at the seasonal festival are to be allowed to carry on with the latter. Anyone who wants to fish or distribute fish during the festival is expected to part with some money. This money paid is exclusively for launching the innovative act of fishing or distributing fish during the festival. It is not necessarily a payment for the fish that will be caught from the lake, even though it is presumed.

Furthermore, to avoid a situation, where low turn-out of participants might lead to poor financial results, thereby stalling the court proceedings, it was better to find a sponsor who would cover the turnover expected from each edition of the festival in bulk. This sponsor can then recoup his money from payments made by participants. The sponsor is not unaware of the risks involved – people might decide to

<sup>10</sup> This rich man took advantage of his wealth and connections within Shell to work against the opposition.



boycott the festival. But, she/he is also aware of the significance of money invested in sponsorship to the Moso village members.

Upon the decision to make each new version of the *Kutu* festival 'sponsorable', the Moso village leaders outlined the criteria for assessing possible sponsors. Such criteria included the following. First, sponsors were expected to come from the Moso village. Secondly, sponsoring of the festival was to be taken in turns by Moso village members. Thirdly, the one whose turn it would be to sponsor, could opt to pass the sponsoring rights over to another, who is financially more capable. But such a person to whom the right to sponsor is passed must be either from Moso or from another village within Obufia. Fourth, sponsors may not come from outside the indigenous people of the Obufia autonomous community. In as much as they intended to raise money needed to save their property, they were also careful not to expose themselves to unpredictable external influences.

Given that none of the village members was capable of, or ready for, taking up the challenge of being the first to sponsor the festival, a non-village sponsor was to be found. The next line of action was identifying this prospective non-village sponsor, as well as the manner of notifying this identified sponsor of the decision. The Moso village settled for an oral invitation to the identified candidate, whom Jay Ogaranya identified as the late father of Oma Ochaka, a former contractor in SPDC. They sent out a delegation with a domestic animal and some expensive hot drink. It was easy to convince this target to commit to their cause with these gift items in hand, and with the promise of taking charge of the festival.

#### **4. Implications for corporate governance**

During my conversation with Jay Ogaranya I learnt that the essence of keeping the fishing event exclusive was to strengthen the social bond of the village and to redefine their friendship with others whom they chose to invite to the event. It was celebrated every three years to allow the fish in the lake enough time to regenerate. In other words, the exclusivity of the fishing festival was for preservation of tradition, social cohesion and ecological preservation.

Assessing the morality of the transformation of *Kutu* fishing festival from an exclusive village feast to an open fish bazaar is outside the cope of this discussion. The same applies to evaluating the impact of the transformation of the festival on the community that celebrated it exclusively. What remains a significant concern for anyone, whether corporate or not is the security of the environment in which we all live and with which we interact in pursuit of our different ends. Unless this environment is conducive for life and business, meeting our ends will all amount to fantasy.

In the second section of this chapter, I mentioned that part of the distribution channels of the Niger Delta's oil wealth is associated with practices such as; occupation of oil infrastructure, kidnapping of oil employees for ransom, extortion of protection money from the oil companies and their contractors, illegal lifting of crude oil, etc. None of these practices is incompatible with the use of weapons and firearms.

Between the late 1990s and the end of the first decade of the millennium, the oil industry in Nigeria experienced a devastating setback due to the insurgency that is well documented<sup>11</sup>. That the SPDC in Egbema was not seriously affected by this

<sup>11</sup> The details are as follows: insurgency [1, 33–37], youth restiveness [38–40], domestic terrorism [41], armed militia struggles [31, 42–44] kidnapping for ransom [37, 40], vandalization of oil pipelines [44] and occupation of oil installations [1, 37, 40, 45–47], theft and trading of oil [48], oil bunkering, extortion of protection money, as well as violent inter and intra-communal clashes [43]



insurgency<sup>12</sup> was down to the creative ingenuity of communities such as the Moso. The story would have been more like that of the parts of the Delta, where insurgents held sway. Neither insurgency nor the type of creativity seen in Moso is indeed necessary if some adjustments in convictions and attitude are duly made. Corporations need not be immune to such adjustments. Since the turn of the millennium, corporate governance codes have been reviewed to accommodate some of these concerns about relationship between companies, shareholders and stakeholders. Bob Tricker [4] documents some of the significant adjustments in codes of corporate governance across the world.

According to him, the UK Corporate Governance Code that was updated in 2018 calls for companies to create a corporate culture aligned with the company strategy, promoting integrity and valuing diversity by way of emphasizing the relationships between companies, shareholders and other stakeholders [4]. The United Nations Global Compact on sustainability and the environment requires adherence to 10 principles on human rights, labour relations, the environment and corruption from companies that signed up to it. “The Statement of the Purpose of the Corporation, published by the US Business Roundtable in August 2019, replaces shareholder primacy with a commitment to all stakeholders – customers, employees, suppliers, communities and shareholders. The ‘triple bottom line’ (TBL) is an accounting framework that reports on the social, environmental and financial performance of an enterprise.” ([4], p. 28). The extractive industry is not left out in all of this. There is also the Extractive Industry Transparency Initiative (EITI), which charges extractive companies with greater emphasis on accountability and transparency in the governance of resources [49].

In the end, Tricker [4] calls attention to a fundamental deficiency in corporate discourse, which tends to neutralize every effort made to improve the relationship between individuals, corporate entities and states. He observes that even though corporate literature take the place of companies and corporate entities in the society for granted, there is hardly any effort to recognize what is to be expected of the key participants in terms of value and behavior:

*Corporate governance literature tends to treat the place of companies and other corporate entities in society as a given. The values and behaviors expected of key participants are seldom recognized. Such concerns raise fundamental questions about relationships between individuals, corporate entities and states [4].*

Anthropologists have maintained that in their actions humans aim either to protect their selfish interests, the interests of other persons or groups or the interest of own group or community [50]. This implies that values may vary from persons to persons or from groups to groups. This clash of values can be read from the encounter between SPDC and the Moso community on the *Kutu* lake. It was the local community that made the necessary adjustments in this case. SPDC took its own position for granted or thought that the compensation it paid in fulfillment of the extant codes, covered for every inconvenience. The company did not take time to study the local community thoroughly so as to settle the logistics of ownership of land before negotiating the compensation. This, as observed earlier<sup>13</sup>, was to the advantage of the company to pit communities against each another and divert their attention away from the company’s activities. The company also failed to consider the fact that it could hardly compensate enough for changing the symbolic meaning

<sup>12</sup> I was reliably informed in the field that the bulk of oil accessible to the Nigerian state during this period came from Egbema.

<sup>13</sup> See footnote 9 above.

of the land expropriated to Moso community. Traditionally, the lake as an ancestral inheritance partly defined the identity of the community as a symbolic capital of the group. But this meaning is now modified into something like; a resource reservoir, which bears an essential resource that keeps the global economy alive. How about the inconvenience of forcing the community to transform the festival they celebrated exclusively into an open bazaar? How much could be paid for such an inconvenience?

Thus, this observation of Tricker [4] that there is a fundamental problem inhibiting the relationship between corporate entities, individuals and states, is spot on. This hardly helps the case of whatever benefits traceable to the constant review of corporate governance codes across different parts of the world. Unless codes of this kind make more room for flexibility in values and behavior, relationship between companies and other stakeholders will linger. There is an additional challenge to this, especially in developing economies like Nigeria. The corporate governance must overcome challenges such as public office holders' influence on corporate governance, bribery and corruption, multiplicity of codes and weak regulatory mechanisms, and lack of protection for whistle blowers [5].

Public office holders in Nigeria have been accused of using their private companies to launder money stolen from the public sector. This influences the independence of corporate governance. When the defaulting companies are indicted, the penalty announced only ends up as a smoke screen to divert the attention of the public. Again, due to bribery and corruption, private business managers who wish to obtain waivers or some permission from the state are frustrated, unless such managers agree to part with bribes.

Furthermore, there is a multiplicity of codes of corporate governance in Nigeria: the National Pension Commission (PENCOM) code, the Code of Corporate Governance for the Insurance Company, the Code of Corporate Governance for Public Companies, the Code of Corporate Governance for Banks and Discount Houses, Nigerian Communications Commission (NCC) Code of Corporate Governance for Telecommunication Industry, and the Financial Reporting Council of Nigeria (FRCN)'s Nigerian Code of Corporate Governance. Osemeke and Adegbite [51] observe conflicting recommendations among the various codes which contributes to reduced compliance by firms and ineffective enforcement by regulatory agencies. This, they maintain, impedes good corporate governance in Nigeria just as weak enforcement of the codes of corporate governance code have prevented corporate entities like the banks from achieving its objectives. In addition to that, whistle blowers are not protected. For fear of losing their jobs or their lives, people who are in a position to report the malpractices and anomalies in the corporate sector prefer to keep their mouths shut. Despite all of these deficiencies, Nigeria is rated among the first five countries in Africa in corporate governance compliance.

## 5. Conclusion

At the end of this discussion of the transformations a local community undertook in order to keep hold of money paid as compensation, one can draw a couple of conclusions. First, corporations impose changes on local communities not only by their physical presence in the locality but also in other intangible ways. One of such ways is the transformation of sociocultural practices of the local communities. This is because the recommendations of codes of corporate governance is hardly elaborate enough as to provide for the prevention of such impositions. The failure of the corporate governance discourse in general to recognize what is expected of key

participants in the relationship between companies, individuals and states in terms of values and behaviors exacerbates this tendency.

Secondly, in a bid to cope with changes imposed by corporations, communities can regenerate their creative capacity, especially when there are materials and tools that can be fixed together to produce something desirable. While this tendencies of communities are commendable, corporations need not take it for granted that such creative tendencies can be found in all local communities. Where such tendencies are difficult to come by, reactions to impositions can be unpredictable. The onus is on corporate governance codes to dispose companies towards flexibility in value and behavior to accommodate situations where impositions can engender violent rather than creative reactions.

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